IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 25TH SEPTEMBER 2007 / 3RD ASWINA 1929

Crl.MC.No. 2967 of 2007()

CC.905/2006 of JUDL.MAGISTRATE OF FIRST CLASS-I, ALUVA

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PETITIONER: ACCUSED

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1. M/S.MANGALAM PUBLICATIONS (INDIA) PVT LTD, MANGALAM COMPLEX, P.B.NO.3, S.H.MOUNT.P.O., KOTTAYAM.

2. MR.SAJAN VARGHESE, MANAGING DIRECTOR, MANGALAM PUBLICATIONS (INDIA) PVT.LTD., MANGALAM COMPLEX, P.B.NO.3, S.H.MOUNT. P.O., KOTTAYAM.

3. MRS.CLARAMMA VARGHESE, DIRECTOR, MANGALAM PUBLICATIONS (INDIA) PVT.LTD., MANGALAM COMPLEX, P.B.NO.3, S.H.MOUNT P.O., KOTTAYAM.

4. DR.SAJI VARGHESE, DIRECTOR, MANGALAM PUBLICATIONS (INDIA) PVT LTD., MANGALAM COMPLEX P.B.NO.3, S.H.MOUNT P.O., KOTTAYAM.

5. MR.BIJU VARGHESE, DIRECTOR, MANGALAM PUBLICATIONS (INDIA) PVT LTD., MANGALAM COMPLEX, P.B.NO.3, S.H.MOUNT P.O. KOTTAYAM.

BY ADV. SRI.GEORGEKUTTY MATHEW

RESPONDENTS: COMPLAINANT/STATE

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1. M/S.GODREJ & BOYCE MFG. CO.LTD. REGD. OFFICE AT PIROJSHANAGAR, VIKHROLI, MUMBAI-400 079 AND HAVING BRANCH AT DOOR NO.IX/418/A4,A5,A6,A8 AND A9 NEAR INFOPARK, EDACHIRA, THENGODE P.O. KAKKANAD, COCHIN - 30 REP. BY ITS BRANCH MANAGER, MR.RAGHAVAN

2. STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 25/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2967 of 2007

Dated this the 25th day of September 2007

O R D E R

The petitioners face indictment in a prosecution under Section 138 of the Negotiable Instruments Act. Cognizance has been taken. The petitioners have not appeared before the learned Magistrate so far. Warrants of arrest are issued by the learned Magistrate to secure the presence of the petitioners.

2. According to the petitioners, they are absolutely innocent. Their failure/omission to appear earlier was not wilful or deliberate. According to the petitioners, only an amount of Rs.1,00,000/- is due to be paid to the complainant now. The petitioners are willing to pay that amounts. The petitioners want some time to make the payment and settle the disputes. In these circumstances, the petitioners may be permitted to deposit the balance amount of Rs.1,00,000/- within the stipulated period of time and the proceedings against the petitioners may be quashed.

3. I find absolutely no merit in the prayer. Subsequent discharge of the liability after commencement of the proceedings

under Section 138 of the Negotiable Instruments Act will not obliterate the culpable liability under Section 138 of the Negotiable Instruments Act. The petitioners must appear before the learned Magistrate and seek regular bail. They can certainly apply for exemption from personal appearance thereafter. The learned Magistrate must consider such application for bail on merits and in accordance with law.

4. If the petitioners surrender before the learned Magistrate and apply for bail, the learned Magistrate must consider such application on merits, in accordance with law and expeditiously – on the date of surrender itself.

5. This petition is in these circumstances dismissed with the above observations/directions.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007